



General Assembly

February Session, 2016

***Raised Bill No. 427***

LCO No. 2786



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING CHILDREN IN THE JUVENILE JUSTICE  
SYSTEM AND GUARDIANSHIP APPOINTMENT.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 46b-141d of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective October 1, 2016*):

3 Any child who is arrested and held in a detention center, an  
4 alternative detention center or a police station or courthouse lockup  
5 prior to the disposition of a juvenile matter shall, if subsequently  
6 convicted as delinquent by the Superior Court and sentenced to a  
7 period of probation or to a period of commitment to the Department of  
8 Children and Families, earn a reduction of such child's period of  
9 probation or commitment, including any extensions thereof, equal to  
10 the number of days that such child spent in such detention center or  
11 lockup.

12 Sec. 2. Section 45a-616 of the general statutes is repealed and the  
13 following is substituted in lieu thereof (*Effective October 1, 2016*):

14 (a) If any minor has no parent or guardian of his or her person, the  
15 court of probate for the district in which the minor resides may, on its  
16 own motion, appoint a guardian or coguardians of the person of the  
17 minor, taking into consideration the standards provided in section 45a-  
18 617. Such court shall take of such guardian or coguardians a written  
19 acceptance of guardianship and, if the court deems it necessary for the  
20 protection of the minor, a probate bond.

21 (b) If any minor has a parent or guardian, who is the sole guardian  
22 of the person of the child, the court of probate for the district in which  
23 the minor resides may, on the application of the parent or guardian of  
24 such child or of the Commissioner of Children and Families with the  
25 consent of such parent or guardian and with regard to a child within  
26 the care of the commissioner, appoint one or more persons to serve as  
27 coguardians of the child. When appointing a guardian or guardians  
28 under this subsection, the court shall take into consideration the  
29 standards provided in section 45a-617. The court may order that the  
30 appointment of a guardian or guardians under this subsection take  
31 effect immediately or, upon request of the parent or guardian, upon  
32 the occurrence of a specified contingency, including, but not limited to,  
33 the mental incapacity, physical debilitation or death of that parent or  
34 guardian. Upon the occurrence of such contingency and notice thereof  
35 by written affidavit to the probate court by the appointed guardian or  
36 guardians, such appointment shall then take effect and continue until  
37 the further order of the court, provided the court may hold a hearing  
38 to verify the occurrence of such contingency. The court shall take of  
39 such guardian or coguardians a written acceptance of guardianship,  
40 and if the court deems it necessary for the protection of the minor, a  
41 probate bond.

42 (c) Upon receipt by the court of an application pursuant to this  
43 section, the court shall set a time and place for a hearing to be held  
44 within thirty days of the application, unless the court requests an  
45 investigation in accordance with the provisions of section 45a-619, in  
46 which case the court shall set a day for hearing not more than thirty

47 days following receipt of the results of the investigation. The court  
48 shall order notice of the hearing to be given to the minor, if over twelve  
49 years of age, by first class mail at least ten days prior to the date of the  
50 hearing. In addition, notice by first class mail shall be given to the  
51 petitioner and all other parties in interest known by the court.

52 (d) The rights and obligations of the guardian or coguardians shall  
53 be those described in subdivisions (5) and (6) of section 45a-604 and  
54 shall be shared with the parent or previously appointed guardian of  
55 the person of the minor. The rights and obligations of guardianship  
56 may be exercised independently by those who have such rights and  
57 obligations. In the event of a dispute between guardians or between a  
58 coguardian and a parent, the matter may be submitted to the court of  
59 probate which appointed the guardian or coguardian.

60 (e) Upon the death of the parent or guardian, any appointed  
61 guardians of the person of a minor child shall become the sole  
62 guardians or coguardians of the person of that minor child.

63 (f) For purposes of this section, "minor" or "minor child" means (1) a  
64 person under the age of eighteen, or (2) an unmarried person under  
65 the age of twenty-one who is dependent on a competent caregiver and  
66 consents to the appointment or continuation of a guardian after  
67 attaining the age of eighteen, solely in connection with a petition to the  
68 United States Citizenship and Immigration Services for designation of  
69 the person as having special immigrant juvenile status under 8 USC  
70 1101(a)(27)(f).

71 Sec. 3. Section 45a-616a of the general statutes is repealed and the  
72 following is substituted in lieu thereof (*Effective October 1, 2016*):

73 (a) In appointing a guardian of the person of a minor pursuant to  
74 section 45a-616 or at any time following such appointment, the Court  
75 of Probate may establish a permanent guardianship if the court  
76 provides notice to each parent that the parent may not petition for  
77 reinstatement as guardian or petition to terminate the permanent

78 guardianship, except as provided in subsection (b) of this section, or  
79 the court indicates on the record why such notice could not be  
80 provided, and the court finds by clear and convincing evidence that  
81 the establishment of a permanent guardianship is in the best interests  
82 of the minor and that the following have been proven by clear and  
83 convincing evidence:

84 (1) One of the grounds for termination of parental rights, as set forth  
85 in subparagraphs (A) to (G), inclusive, of subdivision (2) of subsection  
86 (g) of section 45a-717 exists, or the parents have voluntarily consented  
87 to the appointment of a permanent guardian;

88 (2) Adoption of the minor is not possible or appropriate;

89 (3) (A) If the minor is at least twelve years of age, such minor  
90 consents to the proposed appointment of a permanent guardian, or (B)  
91 if the minor is under twelve years of age, the proposed permanent  
92 guardian is a relative or already serving as the permanent guardian of  
93 at least one of the minor's siblings;

94 (4) The minor has resided with the proposed permanent guardian  
95 for at least one year; and

96 (5) The proposed permanent guardian is suitable and worthy and  
97 committed to remaining the permanent guardian and assuming the  
98 rights and responsibilities for the minor until the minor reaches the age  
99 of majority.

100 (b) If a permanent guardian appointed under this section becomes  
101 unable or unwilling to serve as permanent guardian, the court may  
102 appoint a successor guardian or permanent guardian in accordance  
103 with this section and sections 45a-616 and 45a-617, or may reinstate a  
104 parent of the minor who was previously removed as guardian of the  
105 person of the minor if the court finds that the factors that resulted in  
106 the removal of the parent as guardian have been resolved  
107 satisfactorily, and that it is in the best interests of the child to reinstate

108 the parent as guardian.

109 (c) For purposes of this section, "minor" or "minor child" means (1) a  
110 person under the age of eighteen, or (2) an unmarried person under  
111 the age of twenty-one who is dependent on a competent caregiver and  
112 consents to the appointment or continuation of a guardian after  
113 attaining the age of eighteen, solely in connection with a petition to the  
114 United States Citizenship and Immigration Services for designation of  
115 the person as having special immigrant juvenile status under 8 USC  
116 1101(a)(27)(I).

117 Sec. 4. Section 45a-617 of the general statutes is repealed and the  
118 following is substituted in lieu thereof (*Effective October 1, 2016*):

119 (a) When appointing a guardian, coguardians or permanent  
120 guardian of the person of a minor, the court shall take into  
121 consideration the following factors: (1) The ability of the prospective  
122 guardian, coguardians or permanent guardian to meet, on a  
123 continuing day to day basis, the physical, emotional, moral and  
124 educational needs of the minor; (2) the minor's wishes, if he or she is  
125 over the age of twelve or is of sufficient maturity and capable of  
126 forming an intelligent preference; (3) the existence or nonexistence of  
127 an established relationship between the minor and the prospective  
128 guardian, coguardians or permanent guardian; and (4) the best  
129 interests of the child. There shall be a rebuttable presumption that  
130 appointment of a grandparent or other relative related by blood or  
131 marriage as a guardian, coguardian or permanent guardian is in the  
132 best interests of the minor child.

133 (b) For purposes of this section, "minor" or "minor child" means (1) a  
134 person under the age of eighteen, or (2) an unmarried person under  
135 the age of twenty-one who is dependent on a competent caregiver and  
136 consents to the appointment or continuation of a guardian after  
137 attaining the age of eighteen, solely in connection with a petition to the  
138 United States Citizenship and Immigration Services for designation of

139 the person as having special immigrant juvenile status under 8 USC  
140 1101(a)(27)(J).

141       Sec. 5. Section 45a-608n of the 2016 supplement to the general  
142 statutes is repealed and the following is substituted in lieu thereof  
143 (*Effective October 1, 2016*):

144       (a) For the purposes of this section and section 45a-608o, a minor  
145 child shall be considered dependent upon the court if the court has (1)  
146 removed a parent or other person as guardian of the minor child, (2)  
147 appointed a guardian or coguardian for the minor child, (3) terminated  
148 the parental rights of a parent of the minor child, or (4) approved the  
149 adoption of the minor child.

150       (b) At any time during the pendency of a petition to remove a  
151 parent or other person as guardian under section 45a-609 or 45a-610, or  
152 to appoint a guardian or coguardian under section 45a-616, a party  
153 may file a petition requesting the Probate Court to make findings  
154 under this section to be used in connection with a petition to the  
155 United States Citizenship and Immigration Services for designation of  
156 the minor child as having special immigrant juvenile status under 8  
157 USC 1101(a)(27)(J). The Probate Court shall cause notice of the hearing  
158 on the petition to be given by first class mail to each person listed in  
159 subsection (b) of section 45a-609, and such hearing may be held at the  
160 same time as the hearing on the underlying petition for removal or  
161 appointment. If the court grants the petition to remove the parent or  
162 other person as guardian or appoint a guardian or coguardian, the  
163 court shall make written findings on the following: (1) The age of the  
164 minor child; (2) the marital status of the minor child; (3) whether the  
165 minor child is dependent upon the court; (4) whether reunification of  
166 the minor child with one or both of the minor child's parents is not  
167 viable due to any of the grounds sets forth in subdivisions (2) to (5),  
168 inclusive, of section 45a-610; and (5) whether it is not in the best  
169 interests of the minor child to be returned to the minor child's or  
170 parent's country of nationality or last habitual residence.

171 (c) If the court has previously granted a petition to remove a parent  
172 or other person as guardian under section 45a-609 or 45a-610 or to  
173 appoint a guardian or coguardian under section 45a-616, a parent,  
174 guardian or attorney for the minor child may file a petition requesting  
175 that the court make findings under this section to be used in  
176 connection with a petition to the United States Citizenship and  
177 Immigration Services for designation of the minor child as having  
178 special immigrant juvenile status under 8 USC 1101(a)(27)(J). The court  
179 shall cause notice of the hearing on the petition to be given by first  
180 class mail to each parent, guardian and attorney for the minor child, to  
181 the minor child if the minor child is twelve years of age or older and to  
182 other persons as the court determines. The court shall make written  
183 findings on the petition in accordance with subsection (b) of this  
184 section.

185 (d) For purposes of this section, "minor" or "minor child" means (1) a  
186 person under the age of eighteen, or (2) an unmarried person under  
187 the age of twenty-one who is dependent on a competent caregiver and  
188 consents to the appointment or continuation of a guardian after  
189 attaining the age of eighteen, solely in connection with a petition to the  
190 United States Citizenship and Immigration Services for designation of  
191 the person as having special immigrant juvenile status under 8 USC  
192 1101(a)(27)(J).

193 Sec. 6. Section 46b-146 of the 2016 supplement to the general statutes  
194 is repealed and the following is substituted in lieu thereof (*Effective*  
195 *October 1, 2016*):

196 (a) (1) Whenever [any] a child has been convicted as delinquent [,  
197 has been adjudicated a member of a family with service needs] for the  
198 commission of a serious juvenile offense or has signed a statement of  
199 responsibility admitting to having committed a [delinquent act]  
200 serious juvenile offense, and has subsequently been discharged from  
201 the supervision of the Superior Court or from the custody of the  
202 Department of Children and Families or from the care of any other

203 institution or agency to [whom] which the child has been committed  
 204 by the court, such child, or the child's parent or guardian, may file a  
 205 petition with the Superior Court [. If such] for erasure of records  
 206 pursuant to this subdivision. The court shall order all police and court  
 207 records pertaining to such child be erased if the court finds [(1)] (A)  
 208 that (i) at least [two years or, in the case of a child convicted as  
 209 delinquent for the commission of a serious juvenile offense,] four years  
 210 have elapsed from the date of such discharge, [(B) that] (ii) no  
 211 subsequent juvenile proceeding or adult criminal proceeding is  
 212 pending against such child, [(C) that] (iii) such child has not been  
 213 convicted of a delinquent act that would constitute a felony or  
 214 misdemeanor if committed by an adult during such [two-year or] four-  
 215 year period, [(D) that] (iv) such child has not been convicted as an  
 216 adult of a felony or misdemeanor during such [two-year or] four-year  
 217 period, and [(E) that] (v) such child has reached eighteen years of age,  
 218 or [(2)] (B) that such child has a criminal record as a result of being a  
 219 victim of conduct by another person that constitutes a violation of  
 220 section 53a-192a or a criminal violation of 18 USC Chapter 77. [, the  
 221 court shall order all police and court records pertaining to such child to  
 222 be erased.]

223 (2) Whenever a child has been convicted as delinquent for the  
 224 commission of a delinquent act other than a serious juvenile offense,  
 225 has been adjudicated a member of a family with service needs or has  
 226 signed a statement of responsibility admitting to having committed a  
 227 delinquent act other than a serious juvenile offense, and has  
 228 subsequently been discharged from the supervision of the Superior  
 229 Court or from the custody of the Department of Children and Families  
 230 or from the care of any other institution or agency to which the child  
 231 has been committed by the court, the court shall order all police and  
 232 court records pertaining to such child to be erased on the second day  
 233 of January of each year or on a date designated by the court without  
 234 the filing of a petition if the court finds that (A) at least two years have  
 235 elapsed from the date of such discharge, (B) no subsequent juvenile



236 proceeding or adult criminal proceeding is pending against such child,  
237 (C) such child has not been convicted of a delinquent act that would  
238 constitute a felony or misdemeanor if committed by an adult during  
239 such two-year period, (D) such child has not been convicted as an  
240 adult of a felony or misdemeanor during such two-year period, and (E)  
241 such child has reached eighteen years of age.

242       (3) Upon the entry of such an erasure order, all references including  
243 arrest, complaint, referrals, petitions, reports and orders, shall be  
244 removed from all agency, official and institutional files, and a finding  
245 of delinquency or that the child was a member of a family with service  
246 needs shall be deemed never to have occurred. The persons in charge  
247 of such records shall not disclose to any person information pertaining  
248 to the record so erased, except that the fact of such erasure may be  
249 substantiated where, in the opinion of the court, it is in the best  
250 interests of such child to do so. No child who has been the subject of  
251 such an erasure order shall be deemed to have been arrested ab initio,  
252 within the meaning of the general statutes, with respect to proceedings  
253 so erased. Copies of the erasure order shall be sent to all persons,  
254 agencies, officials or institutions known to have information pertaining  
255 to the delinquency or family with service needs proceedings affecting  
256 such child.

257       (b) Whenever the case of a child who is charged with being  
258 delinquent or being a member of a family with service needs is  
259 dismissed, [as not delinquent or as not being a member of a family  
260 with service needs,] all police and court records pertaining to such  
261 charge shall be ordered erased immediately, without the filing of a  
262 petition.

263       (c) Nothing in this section shall prohibit the court from granting a  
264 petition to erase a child's records on a showing of good cause, after a  
265 hearing, before the [time] date when such records could be erased.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016</i>	46b-141d
Sec. 2	<i>October 1, 2016</i>	45a-616
Sec. 3	<i>October 1, 2016</i>	45a-616a
Sec. 4	<i>October 1, 2016</i>	45a-617
Sec. 5	<i>October 1, 2016</i>	45a-608n
Sec. 6	<i>October 1, 2016</i>	46b-146

***Statement of Purpose:***

To provide that children committed to the Department of Children and Families receive credit for such time upon the disposition of their case, to allow certain unmarried persons under the age of twenty-one to be appointed a guardian, solely in connection with a petition to the United States Citizenship and Immigration Services for designation of the person as having special immigrant juvenile status and to revise record retention and erasure requirements with respect to delinquency and family with service needs proceedings in the Superior Court.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*